

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION**

Kobe, Mark and John,)
Plaintiffs,)
v.)
Cynthia Mann, Deputy Administrator and)
Director of the Center for Medicaid, CHIP, and)
Survey & Certification (CMS), Nikki Haley, in)
her official capacity as Governor and Chairman)
of the South Carolina Budget and Control)
Board; Eleanor Kitzman, in her official)
capacity as the Executive Director of the State)
Budget and Control Board; Glenn F.)
McConnell, in his official capacity as the)
President Pro Tempore of the South Carolina)
Senate; Robert W. Harrell, Jr. in his official)
capacity as the Speaker of the South Carolina)
House of Representatives, Anthony Keck, in)
his official capacity as the Director of the)
South Carolina Department of Health and)
Human Services, Beverly Buscemi in her)
official capacity as Director of the South)
Carolina Department of Disabilities and)
Special Needs and in her individual capacity,)
Richard Huntress, Kathi Lacy, Thomas P.)
Waring and Jacob Chorey, in their individual)
and official capacities, Mary Leitner, in her)
official capacity as the director of the Richland)
Lexington disabilities and Special Needs)
Board; and Judy Johnson, in her official)
capacity as the Director of the Babcock Center)
and in her individual capacity,)
Defendants.)

)

Civil Action Number:
3:11-1146-JMC-JDA

**MOTION TO DISMISS DEFENDANTS
MCCONNELL AND HARRELL**

Defendants Glenn F. McConnell, in his official capacity as the President Pro Tempore of the South Carolina Senate, and Robert W. Harrell, Jr. in his official capacity as the Speaker of the South Carolina House of Representatives, hereby move to dismiss the Complaint against them, on the ground that they are absolutely immune from suit under the doctrine of legislative immunity with respect to all claims of the Plaintiffs, whether for damages, or for declaratory or injunctive relief of any kind. This motion is based on the Memorandum in Support, filed herewith, and on such other matters of which the Court may take notice.

Respectfully submitted,

DAVIDSON & LINDEMANN, P.A.

BY: s/Kenneth P. Woodington

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ATTORNEYS for Defendants Glenn F. McConnell, in his official capacity as the President Pro Tempore of the South Carolina Senate, and Robert W. Harrell, Jr. in his official capacity as the Speaker of the South Carolina House of Representatives,

Columbia, South Carolina

July 8, 2011